

AMENDED IN SENATE AUGUST 19, 2014

AMENDED IN SENATE MAY 19, 2014

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1043

Introduced by Assembly Member Chau
(Coauthor: Senator Hernandez)

February 22, 2013

An act to amend Section 75101 of the Public Resources Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, as amended, Chau. Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006: groundwater contamination.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative statute approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, makes approximately \$5.4 billion in bond funds available for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. The initiative bond act makes \$60,000,000 available to the State Department of Public Health *Water Resources Control Board* for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water and requires the department to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Existing law requires the department *State Department of Public Health*, in

collaboration with the Department of Toxic Substances Control, ~~or DTSC~~, and the ~~State Water Resources Control Board~~, *state board*, to develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination of groundwater.

This bill would eliminate the requirement to develop and adopt regulations and instead would require that costs subsequently recovered from a party responsible for the contamination, as defined, be repaid to the ~~State Department of Public Health~~ *state board* and deposited, and separately accounted for, in the Groundwater Contamination Cleanup Project Fund, which this bill would create in the State Treasury. This bill would require moneys in the fund to be ~~continuously appropriated, without regard to fiscal years, available, upon appropriation by the Legislature~~, to the ~~Department of Toxic Substances Control~~ *state board* for a grant to the grantee that received a grant to prevent or reduce contamination of groundwater pursuant to Proposition 84 and subsequently recovered costs from a responsible party and repaid those costs to the state. This bill would require the ~~Department of Toxic Substances Control~~ *state board* to disburse the funds upon ~~receipt the approval of an expenditure plan from submitted by the grantee if the department reviews the plan and concurs that the proposed expenditures by the grantee are consistent with certain requirements.~~ *grantee*. This bill would prohibit the total amount of a grant from the fund and a grant received to prevent or reduce contamination of groundwater pursuant to Proposition 84 from exceeding the grantee's total costs to cleanup contaminated groundwater or prevent the contamination of groundwater. *This bill would require moneys recovered from a responsible party in excess of the amount that may be awarded as a grant to be available from the fund to the state board, upon appropriation by the Legislature, for expenditure on orphan groundwater contamination cleanup projects and would require the board to consult with the Department of Toxic Substances Control when considering expenditures on orphan groundwater contamination cleanup projects.*

Existing law, the ~~Carpenter-Presley-Tanner Hazardous Substance Account Act~~, creates in the General Fund the Site Remediation Account, and authorizes the money in that account to be expended by ~~DTSC~~, upon appropriation by the Legislature, for direct site remediation costs.

The bill would require moneys recovered from a responsible party in excess of the amount that may be awarded as a grant to be transferred

~~to the Site Remediation Account, to be used for certain orphan groundwater contamination cleanup projects.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 75101 of the Public Resources Code is
2 amended to read:

3 75101. (a) (1) Costs subsequently recovered from a party
4 responsible for the contamination pursuant to Section 75025 shall
5 be repaid to the ~~State Department of Public Health~~ *state board* and
6 deposited in the Groundwater Contamination Cleanup Project
7 Fund, which is hereby created in the State Treasury. Costs
8 recovered shall be separately accounted for within the Groundwater
9 Contamination Cleanup Project Fund.

10 (2) ~~Notwithstanding Section 13340 of the Government Code,~~
11 ~~moneys—Moneys~~ in the Groundwater Contamination Cleanup
12 Project Fund are ~~continuously appropriated, without regard to~~
13 ~~fiscal years, available, upon appropriation by the Legislature, to~~
14 ~~the Department of Toxic Substances Control~~ *state board* for the
15 purpose of a grant to the grantee that received funds and
16 subsequently recovered costs from a responsible party and repaid
17 those costs to the state in the following priority order:

18 (A) Projects and activities to clean up areas of groundwater
19 contamination within the grantee's jurisdiction where the initial
20 grant awarded pursuant to Section 75025 is insufficient to pay for
21 the full costs of the cleanup.

22 (B) Projects and activities to clean up additional areas of
23 groundwater contamination within the grantee's jurisdiction.

24 (3) (A) The total amount of the grant awarded pursuant to
25 Section 75025 and the amount awarded pursuant to this subdivision
26 shall not exceed the grantee's total costs to clean up contaminated
27 groundwater or prevent the contamination of groundwater.

28 (B) If costs recovered by the grantee and deposited in the
29 Groundwater Contamination Cleanup Project Fund exceed the
30 amount that may be awarded as a grant pursuant to the limit in
31 subparagraph (A), the excess moneys shall be ~~transferred to the~~
32 ~~Site Remediation Account, established pursuant to Section 25337~~
33 ~~of the Health and Safety Code. Recovered funds deposited into~~

1 the account shall be used by the Department of Toxic Substances
2 Control for orphan groundwater contamination cleanup projects
3 at sites that are on the list maintained by the Department of Toxic
4 Substances Control pursuant to Section 25356 of the Health and
5 Safety Code or on the National Priorities List pursuant to the
6 Comprehensive Environmental Response, Compensation, and
7 Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), as amended.
8 *available to the state board, upon appropriation by the Legislature,*
9 *for expenditure on orphan groundwater contamination cleanup*
10 *projects. The state board shall consult with the Department of*
11 *Toxic Substances Control when considering expenditures on*
12 *orphan groundwater contamination cleanup projects.*

13 (4) The grantee shall use an amount awarded pursuant to this
14 subdivision for groundwater contamination cleanup activities for
15 groundwater that is a primary source of drinking water, including,
16 but not limited to, ongoing treatment and remediation activities in
17 accordance with the purposes of Section 75025.

18 ~~(5) The Department of Toxic Substances Control shall disburse~~
19 ~~the funds upon receipt of an expenditure plan from the grantee if~~
20 ~~the Department of Toxic Substances Control reviews the plan and~~
21 ~~concurs that the proposed expenditures by the grantee are consistent~~
22 ~~with paragraphs (2) to (4), inclusive.~~

23 (5) *When seeking grant funds pursuant to paragraph (2), a*
24 *grantee shall submit an expenditure plan to the state board for*
25 *projects consistent with this subdivision. The state board shall*
26 *review the submitted expenditure plan and consult with the*
27 *Department of Toxic Substances Control for projects where the*
28 *Department of Toxic Substances Control is the lead state agency.*
29 *The state board shall notify the grantee if the expenditure plan is*
30 *approved, and if approved, the state board shall disburse the funds.*

31 (6) Grants awarded pursuant to this subdivision may be used
32 for capital costs and treatment and remediation activities.

33 (7) Commencing no later than July 1, 2015, and annually
34 thereafter until the grantee's funds are expended, a grantee of funds
35 awarded pursuant to this subdivision shall provide public notice,
36 by posting a list on the grantee's Internet Web site, of projects and
37 activities that receive grant funds pursuant to this subdivision and
38 the amount of those funds.

39 (8) As used in this subdivision, "costs subsequently recovered
40 from a party responsible for the contamination" means the amount

1 of any judgment or settlement received by a grantee of funds
2 received pursuant to Section 75025 from a responsible party that
3 is attributable to costs funded by the grant received pursuant to
4 Section 75025, less all reasonable and necessary fees and expenses
5 incurred by the grantee of funds received pursuant to Section 75025
6 to recover these funds.

7 (b) For the purposes of implementing subdivision (a) of Section
8 75050, the Department of Fish and ~~Game~~, *Wildlife*, when funding
9 a natural community conservation plan, shall fund only the
10 development of a natural community conservation plan that is
11 consistent with the Natural Community Conservation Planning
12 Act (Chapter 10 (commencing with Section 2800) of Division 3
13 of the Fish and Game Code).

14 (c) The San Francisco Bay Area Conservancy may use the funds
15 made available pursuant to subdivision (c) of Section 75060 to
16 restore the salt ponds in the south San Francisco Bay and to create
17 trails and visitor facilities for public use in that area.